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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of

Implementation of the
Subscriber Changes Provisions
of the Telecommunications Act
of 1996

Policies and Rules Concerning
Unauthorized Changes of Consumers'
Long Distance Carriers

Talk.com, Inc. and Talk.com Holding Corp.
Request for Waiver

CC Docket No. 94-129

PETITION FOR EXPEDITED WAIVER

Talk.com, Inc. and Talk.com Holding Corp. (combined "Talk.com" or "Petitioner")¹, by their attorneys and pursuant to Section 1.3 of the Commission's Rules, respectfully petition the Commission to grant a limited waiver of 47 C.F.R Sections 64.1100 – 64.1190 as required to transfer certain presubscribed business customers of Net2000 Communications, Inc. ("Net2000") to Talk.com without first obtaining each subscriber's individual authorization and verification.² In addition, Petitioner respectfully requests expedited treatment of this petition, to the extent necessary, to allow the Parties to effectuate the proposed transfer on or before ***June 1, 2000***.

¹ Talk.com Holding Corp., a wholly-owned subsidiary of Talk.com, Inc., is the entity that holds the state telecommunications certificates.

² Pursuant to 47 C.F.R. §64.1150, prior to submitting a preferred carrier change, carriers must either: (1) obtain the subscriber's written and signed authorization; (2) obtain confirmation from the subscriber via a toll-free number provided for the exclusive
(continued...)

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Net2000 is a competitive local exchange carrier (“CLEC”) and interexchange carrier (“IXC”) that maintains its headquarters in Herndon, Virginia. Net2000 operates throughout the mid-Atlantic and Northeast regions of the United States. The Company provides a wide array of local exchange and interexchange services to its customers. With its recent announcement of a merger with Access One, Talk.com presently is expanding its product line to include the provision of competitive local exchange services.

Net2000 initiated local service in early 1999 by reselling local exchange services purchased from incumbent local exchange carriers (“ILECs”). The company’s longer term plan was to deploy its own local network services, and migrate its resale customer base to its own facilities platform as soon as practical. Net2000 has now deployed its own local switching and associated network facilities in many areas. Not surprisingly, it also has discovered that a portion of its resale customer base is located in geographic areas that are not reached by the Net2000 network, or cannot be served efficiently by the Net2000 network design. In order to execute its own business plan to operate as a facilities-based carrier on a going-forward basis, Net2000 is in the process of migrating the remaining resale customers to other carriers through a variety of means.

Initially, Talk.com will provide local services as a resale carrier in Maryland, Virginia and the District of Columbia. Eventually, Talk.com plans to provide local services utilizing UNE-Platform arrangements where feasible. Net2000 and Talk.com have entered into an agreement whereby Talk.com will purchase a small portion of Net2000’s existing resale

(...continued)

purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber’s order.

customer base in Maryland, Virginia and the District of Columbia which cannot be migrated efficiently to service over the Net2000 network. All of the customers involved are business customers. Each customer currently subscribes to Net2000 local services, and some are presubscribed to Net2000 interexchange services as well.

Importantly, affected customers will be fully informed of the change. Net2000 will make reasonable attempts to contact each affected customer individually (either by telephone or in person) to explain the process, and inform the customer of its rights and options, including the customer's right to select a carrier other than Talk.com. Net2000 and Talk.com will also send a notification letter to each of them (in substantially the form of *Attachment A* appended hereto). The letter will inform customers of the automatic switch in their telecommunications service provider to Talk.com on or about ***June 1, 2000***; that there will be no charge to the customer; that there will be no change to the way they dial or the customer service available to them; of the benefits of staying with Talk.com; and of the option to change carriers to another service provider if they prefer. The notification letter will also invite customers to visit Net2000's or Talk.com's website or dial a toll-free number for more information.

Moreover, after the migration, Talk.com intends to send a second letter to affected customers, to ensure that consumers fully understand the situation (in substantially the form of *Attachment B* appended hereto). The post-migration notification letter welcomes customers to Talk.com and informs them of any change in their calling plan and rates, and of the advantages of being served by Talk.com. Further, if the customer is not satisfied with Talk.com's service within the first 90 days, Talk.com offers to pay any associated PIC change fee for the affected

customer. After the migration, virtually all affected customers will be provided service at equivalent or lower rates.

Petitioner respectfully submits that the purposes of the Commission's LOA and verification rules would not be served by obtaining prior authorization and verification in order to switch the affected customers of Net2000 to Talk.com, and that the public interest is served by granting a waiver of those rules in these limited circumstances. Further, Petitioner fears that such a "re-presubscription" effort would prove confusing and frustrating to customers. Customers who do not understand the need to sign new forms, and fail to respond, could lose service altogether or pay potentially higher casual calling rates. Accordingly, Petitioner believes that any potential benefits of obtaining new authorizations are outweighed by the potential detriments of such a program, and submit that all efforts will be taken to ensure that customers are not inconvenienced or harmed in any way. Indeed, Petitioner's goal is to be able to provide superior service and rates to affected customers as a result of the migration.

It is well-established that waiver of the Commission's Rules is appropriate if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.³ The party requesting waiver must show that the underlying purpose of the rule would not be served or would be frustrated, or that unusual or unique circumstances cause application of the rule to be unfair, unduly burdensome or contrary to the public interest.

In the instant case, the special circumstances requiring a deviation from the Commission's Rules include the need to ensure a seamless transition of local and, in some cases, long distance telecommunications service providers for the affected customers. If the

³ See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

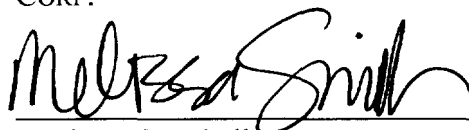
Commission grants the waiver, it will protect against the possibility of customers losing local and, in some cases, long distance service altogether or being charged potentially higher casual calling rates. Moreover, the affected customers will be notified promptly of the process and their rights and options. By transferring customers by notification as described in this request, the policy goals of the Commission's authorization and verification requirements will be met more efficiently and consistent with the public interest. Indeed, the circumstances that justify grant of a waiver to Petitioners are analogous to those that the Commission recently found to justify a waiver for many other carriers.⁴

⁴ See, e.g., *Sprint Communications Company, Request for Waiver*, DA 00-620, released March 17, 2000; *Iowa Telecommunications Services, Request for Waiver*, DA 99-2777, released December 21, 1999; *Conversent Communications, LLC, Request for Waiver*, DA 99-2776, released December 21, 1999; *Sprint Communications Company, L.P., Request for Waiver*, DA 99-2178, released October 20, 1999; *Excel Telecommunications, Inc., et al., Request for Waiver*, DA 99-1992, released September 29, 1999; *AT&T Corporation Request for Waiver*, DA 99-1718, released August 27, 1999; *MCI WorldCom, Inc. Request for Waiver*, DA 99-11549, released August 6, 1999; *Primus Telecommunications Group, Inc. Petition for Waiver*, DA 99-1550, released August 5, 1999; *Citizens Telecommunications Company Alliance Group Services, Inc. Joint Request for Waiver*, DA 99-1521, released July 30, 1999; *Startec Global Operating And PCI Communications, Inc. Request for Waiver*, DA 99-1461, released July 23, 1999.

Accordingly, Petitioner respectfully requests that the Commission waive its authorization and verification rules as set forth above. Expedited action on this waiver is requested to the extent necessary to allow the Parties to effectuate the customer migration on or before ***June 1, 2000***. A limited waiver of the Commission's LOA and verification rules will allow a seamless transfer that will be transparent and advantageous to customers.

Respectfully submitted,

TALK.COM, INC. AND TALK.COM HOLDING
CORP.

A handwritten signature in black ink, appearing to read "Melissa M. Smith", written over a horizontal line.

By: Brad E. Mutschelknaus
Melissa M. Smith
KELLEY DRYE & WARREN LLP
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036
(202) 955-9667

Counsel to Talk.com

Dated: April 19, 2000

ATTACHMENT A

IMPORTANT INFORMATION REGARDING YOUR TELECOMMUNICATIONS SERVICE

Dear Net2000 Customer:

We are happy to share some exciting news about your local [and long distance] telephone service.

Now there's an even better way for you to enjoy the quality service and savings that Net2000 has provided you since you became a customer. Starting **June 1, 2000**, your service provider will be automatically switched from Net2000 to Talk.com, a leading provider of telecommunications services. There is no charge for this change, and nothing you need to do. It's automatic.

All the great things you've come to expect from Net2000 will remain the same. There will be no change to your rates, service options, or the way you dial, and you'll still have 24-hour-a-day access to customer care representatives. The only change you will notice will be the name of your carrier.

As always, you have the option to change your local [and/or long distance] carrier at any time. However we feel confident that when you experience the low rates and quality service Talk.com provides that you will remain with Talk.com.

We appreciate your business. If you have questions, please call a customer care representative at [toll free number] or visit Net2000 on the Internet at www.net2000.com, or Talk.com on the Internet at www.talk.com.

Sincerely,

Net2000 Communications, Inc.
and
Talk.com Holding Corp.

ATTACHMENT B

IMPORTANT INFORMATION REGARDING YOUR TELECOMMUNICATIONS SERVICE

Dear Talk.com Customer:

Welcome! We know how important saving money on local [and long distance] service is to you and that is why we are happy to share some exciting news about your service. On June 1, 2000, certain of Net2000's presubscribed business customers were automatically moved to Talk.com. There is no change in the way you place calls. The only change you will notice will be the name of your carrier.

Talk.com is an innovative company determined to give you the best service, savings and choices you expect from a full service provider. If, within the first 90 days, you are not satisfied with Talk.com's service we will pay the fee to switch you to the local [and long distance] carrier of your choice.

Again, welcome to Talk.com! Should you have any questions please call our Customer Service department at [toll free number]. We look forward to meeting your needs and strengthening our relationship with you.

Sincerely,

Talk.com Holding Corp.

CERTIFICATE OF SERVICE

I, Melissa Smith, hereby certify that on this 19th day of April a copy of the foregoing **PETITION FOR EXPEDITED WAIVER** was delivered by hand to the following:

Lawrence E. Strickling
Federal Communications Commission
Room 5C-345
Portals II
445 12th Street, S.W.
Washington, D.C. 20554

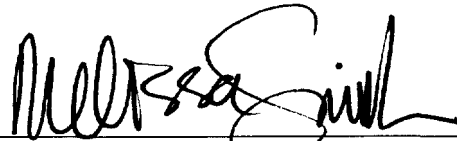
Glenn Reynolds
Federal Communications Commission
Room 5A-847
Portals II
445 12th Street, S.W.
Washington, D.C. 20554

Anita Cheng
Federal Communications Commission
Common Carrier Bureau
Portals II
445 12th Street, S.W.
Washington, D.C. 20554

International Transcription Services, Inc.
1231 20th Street, N.W.
Washington, D.C. 20036

Robert C. Atkinson
Federal Communications Commission
Portals II
445 12th Street, S.W.
Washington, D.C. 20554

Kim Jackson
Federal Communications Commission
Common Carrier Bureau
Portals II
445 12th Street, S.W.
Washington, D.C. 20554



Melissa Smith